

REMARKS

Applicants have thoroughly considered the Examiner's remarks and respectfully request further reconsideration of the application in light of the following remarks. Claims 1, 3, 4, 5, 6 and 13 have been amended and claim 2 has been canceled by this Amendment A. Applicants respectfully request entry of the amendments to the specification as noted above to correct minor typographical errors. If the Examiner feels, for any reason, that an interview will expedite prosecution of this application, applicants invite the Examiner to telephone the undersigned attorney. Claims 1, 3-14 are presented in the application for further reconsideration.

Claim Rejections - 35 U.S.C. § 112

Claim 1 stands rejected under 35 U.S.C. § 112, second paragraph, as being vague and indefinite because the term "or" is considered by the Examiner to be alternative language. Applicants have amended claim 1 to more clearly set forth the invention. In particular, applicants have amended claim 1 to clarify that the identified files and file data are transferred to a second computer when the total size of the files being transferred is less than a target amount, and that the identified files and file data are transferred a portable computer readable medium when a total size of the files being transferred is greater than a target amount. Applicants submit that amended claim 1 is neither vague nor indefinite and that the limitations of the claim can be clearly interpreted. Applicants therefore submit that amended claim 1 is in compliance with the second paragraph of 35 U.S.C. 112.

Claim Rejections - 35 U.S.C. § 102

Claims 1-14 stand rejected under 35 U.S.C. 102 (b) as being anticipated by U.S. Patent No. 5,659,614 to Bailey, III (Bailey). A claim is anticipated only if each and every element as set forth in the claim is disclosed, either expressly or inherently, in a single prior art reference. Verdegal Bros. v. Union Oil. Of California, 814 F.2d 628, 631 (Fed. Cir. 1987). Applicants submit that each and every element as set forth in the amended claims is not found, either expressly or inherently, in Bailey. Thus, the cited reference does not anticipate the claimed invention.

Bailey discloses a data storage system for transferring files from a client computer to a backup computer located at a backup site. In particular, Bailey discloses a method and system for reducing the amount of data transmitted and stored during the creation of a backup copy of file data of which a previous backup copy has been made. (See column 3, lines 1-4). As described in the present application, such prior online data storage systems are located at known sites on the Internet, and are therefore vulnerable to attack from malicious persons (i.e., hackers) attempting to access and/or modify data stored on such systems. In particular, these existing storage systems do not allow computer users to communicate with other computer users via a communication network, such as the Internet, for the purpose of storing back-up data on the other's computer. (See application page 2, paragraph 0006).

In contrast, the present application discloses a backup system that not only allows a user to designate files to transfer from a first computer to a second computer, to but also allows the user to selectively designate a destination computer to which the files will be transferred. As described in the present application, a destination identification form 142 allows the user to identify the particular destination computer 104 to which to transfer copies the designated files. In this case, a "partner" (i.e., user of a particular destination computer) is identified and added to the originating database 204 by entering the unique application ID (i.e., destination ID) that corresponds to the particular originating application 114 stored on the destination computer 104. The destination ID provides access to the corresponding IP address of the destination computer 104 through a lookup function executed against the back-up database 131 maintained by the server (i.e., server database) or a third party. Bailey does not disclose identifying a destination computer (or backup site) as function of user input designating a destination ID that corresponds to the address of the destination computer. (See application page 9, paragraph 0040).

Moreover, the present invention allows a user to selectively transfer file data to a destination computer via a portable computer readable medium or directly via a communication network. For example, as described in the present application when the originating user 118 transfers large amounts of data (e.g., file data of 1 Gigabyte (GB) or more) to the destination computer 104 for back-up, the transfer may require several hours. Although the back-up stream system 100 allows data transfer to occur without the

knowledge of destination user 130, due to the amount of time required for transferring large amounts of data, such transfers are more likely to be interrupted, for example, by a network time-out, or power interruption to either the originating computer 102 or the destination computer 104. In this embodiment, rather than transferring designated files directly to the destination computer 104 via the network 106, the originating user 118 initially transfers the designated files to a portable computer readable medium (portable medium) 602 such as zip drive, tape, Compact Disc (CD) or Digital Versatile Disk (DVD). (See application page 17, paragraph 0057).

To this end, amended claim 1 recites, in part, "receiving, at the first computer, user input defining a destination identification data," identifying a location of the second computer as a function of the defined identification data," "selectively transferring, based on a total size of the files being transferred, the designated files and file data from the first computer to the second computer or to a portable computer readable medium," "wherein the designated files and file data are transferred to the second computer at the identified location via a communication network when a total size of the files being transferred is less than a target amount, and wherein the designated files and file data are transferred from the first computer to the portable computer readable medium when a total size of the files being transferred is greater than the target amount." Bailey fails to teach or suggest identifying a backup computer as a function of destination identification data received from a user, and fails to teach or suggest selectively transferring file data to a destination computer via a portable computer readable medium or directly via a communication network based on a total size of the files being transferred. Accordingly, Bailey fails to anticipate amended claim 1.

Amended claim 13 recites, in part, "receiving, at the first computer, user input defining a destination identification data," identifying a location of the second computer as a function of the defined identification data," "transferring the files from the verified first computer to a portable computer readable medium," and "selectively delivering the portable computer readable medium to a user of the destination computer based on an amount of data in the one or more files to be transferred, wherein the portable computer readable medium is physically delivered to the destination user when the amount of data to be transferred is greater than or equal to a target amount, and wherein the one or more files

are transferred from the first computer to the second." Again, Bailey fails to teach or suggest these claimed aspects of the invention, and, thus fails to anticipate amended claim 13.

In view of the foregoing, applicants submit that independent claims 1 and 13 are allowable over the cited art. The remaining dependent claims are believed to be allowable for at least the same reasons as the independent claims from which they depend.

It is felt that a full and complete response has been made to the Office action and, as such, places the application in condition for allowance. Such allowance is hereby respectfully requested. Although the prior art made of record and not relied upon may be considered pertinent to the disclosure, none of these references anticipates or makes obvious the recited invention. The fact that applicants may not have specifically traversed any particular assertion by the Office should not be construed as indicating applicants' agreement therewith.

**The applicants wish to expedite prosecution of this application. If the Examiner deems the claims as amended to not be in condition for allowance, the Examiner is invited and encouraged to telephone the undersigned to discuss making an Examiner's amendment to place the claims in condition for allowance.**

The Commissioner is hereby authorized to charge any deficiency or overpayment of any required fee during the entire pendency of this application to Deposit Account No. 19-1345.

Respectfully submitted,



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